



american monitor corporation

P.O. BOX 68505 INDIANAPOLIS, INDIANA 46268 U.S.A. (317) 872-0300 TLX 272319

April 25, 1983

CERTIFIED MAIL
Return Receipt Requested

Mr. Robert E. Leininger
Assistant Regional Counsel (5C-16)
U.S. EPA, Region V
230 S. Dearborn Street
Chicago, Illinois 60604

Re: Environmental Conservation and Chemical Corporation
(Enviro-Chem)

Dear Mr. Leininger:

This letter is in response to the letter received by American Monitor Corporation from the United States Environmental Protection Agency concerning a request for information regarding Enviro-Chem.

As stated in the letter of April 6, 1983 to your office, American Monitor Corporation does not consider itself to be a responsible party for site clean-up. Despite the fact that we do not believe we are liable under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("Superfund"), if the U.S. EPA will provide to American Monitor Corporation copies of all documents and records relating to American Monitor Corporation made available to the U.S. EPA at the Enviro-Chem facility, American Monitor Corporation will, during normal business hours, permit duly authorized representatives from the U.S. EPA to have access to and to copy American Monitor records that contain facts relating to the Enviro-Chem facility not otherwise available to the U.S. EPA at that facility. This offer of information is, of course, subject to all available claims of confidentiality.

US EPA RECORDS CENTER REGION 5

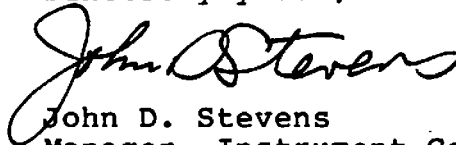


476310

Mr. Robert E. Leininger
April 25, 1983
Page two

Enclosed for your reference are copies of the April 6, 1983 letter to your office, Verified Petition, Response of Plaintiff to the Verified Petition, Order Granting Verified Petition, and the Hazardous Waste Manifest for removed materials.

Sincerely yours,



John D. Stevens
Manager, Instrument Compliance

JDS:1ke
0155A

cc: James G. McIntire
Clifford W. Browning
KRIEG DEVAULT ALEXANDER & CAPEHART

Enclosures:

1. Letter of April 6, 1983
2. Verified Petition
3. Response of Plaintiff to Verified Petition
4. Order Granting Verified Petition
5. Hazardous Waste Manifest for removed materials



american monitor corporation

P.O. BOX 68505 INDIANAPOLIS, INDIANA 46268 U.S.A. (317) 872-0300 TLX 272319

April 6, 1983

Mr. Robert E. Leininger
Assistant Regional Counsel (5C-16)
U.S. EPA
230 S. Dearborn Street
Chicago, Illinois 60604

Re: Environmental Conservation and Chemical Corporation
(Enviro-Chem)

Dear Mr. Leininger:

This letter is in response to the letter received by American Monitor Corporation from the U.S. EPA concerning the Environmental Conservation and Chemical Corporation (Enviro-Chem).

On March 1, 1983 American Monitor Corporation filed a Verified Petition with the Boone County Circuit Court (Cause No. C81-131) seeking to allow the removal of material previously delivered to Enviro-Chem. The Verified Petition was granted on March 24, 1983 after no objections were raised by either the Indiana Environmental Management Board or the Operational and Financial Receiver. On March 25, 1983 pursuant to this order American Monitor Corporation removed 32 leak-proof, Department of Transportation-approved, polypropylene drums containing American Monitor Corporation waste solutions. Prior to removal several visual inspections indicated that there was no leakage or spillage from the drums.

At no time were American Monitor Corporation materials treated or disposed of on the Enviro-Chem site. Materials were always delivered in leak-proof Department of Transportation-approved, polypropylene drums and were staged for immediate re-transport to a third party waste treatment facility located outside the State.

Because American Monitor wastes were not treated or disposed of on site, and materials in leak-proof Department of Transportation polypropylene drums remaining after site closure have now been removed, we believe that American Monitor is not liable under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA, popularly known as Superfund), and American Monitor Corporation should no longer be considered a responsible party for site clean-up.

Mr. Robert E. Leininger
April 6, 1983
Page two

Enclosed for your reference are copies of the Verified Petition, Response of Plaintiff to the Verified Petition, Order Granting Verified Petition, and the Hazardous Waste Manifest for removed materials.

Please update your records naming myself as the contact person at American Monitor Corporation.

I am planning to attend the April 13, 1983 meeting in Chicago.

Sincerely yours,



John D. Stevens
Manager, Instrument Compliance

JDS:lke
0130A

cc: Mr. Jonas A. Dikinis
U.S. EPA

James G. McIntire
Clifford W. Browning
KRIEG DEVAULT ALEXANDER & CAPEHART

Enclosures:

1. Verified Petition
2. Response of Plaintiff to Verified Petition
3. Order Granting Verified Petition
4. Hazardous Waste Manifest for removed materials

STATE OF INDIANA)
) SS:
COUNTY OF BOONE)

IN THE BOONE COUNTY CIRCUIT COURT
CAUSE NO. C81-131 ROOM NO.

INDIANA ENVIRONMENTAL
MANAGEMENT BOARD,)

Plaintiff,)

vs.)

ENVIRO-CHEM CORPORATION,
Et Al.,)

Defendants.)

FILED

MAR 1 1983

John M. Carr
CLERK BOONE COUNTY CIRCUIT COURT

VERIFIED PETITION

Comes now the Petitioner, American Monitor Corporation ("American Monitor"), and for its Verified Petition states as follows:

1. American Monitor is a corporation organized and doing business pursuant to the laws of the State of Indiana, with its principal place of business located at Indianapolis, Indiana.
2. During the regular course of its business, American Monitor delivered to Enviromental Conservation and Chemical Corporation, formerly known as Enviro-Chem Corporation, (hereinafter "Enviro-Chem") certain waste solutions in leak-proof, Department of Transportation-approved, polypropylene barrels, which were immediately staged for re-transport to a third-party waste-treatment facility located out of the State of Indiana. At no time were the American Monitor waste solutions treated on the Enviro-Chem site.
3. As of September 3, 1982, the date on which generators were prohibited from removing drums of wastes from the Enviro-Chem site, there were twenty-seven (27) American Monitor leak-proof, Department of Transportation-approved, polypropylene barrels on the Enviro-Chem site, which barrels were isolated from all other drums on the site and staged for re-transport.
4. As of on or about September 30, 1982, a visual inspection of the twenty-seven (27) American Monitor barrels disclosed that

there was no leaking therefrom and that the American Monitor barrels remained isolated, staged, and readily identifiable and distinguishable from all other barrels on the Enviro-Chem site.

5. On or about August 30, 1982, Gary L. Watson, the Enviro-Chem site Operational and Financial Receiver stated to American Monitor through its agent John Stevens that American Monitor could remove its barrels from the Enviro-Chem site, provided that a staging price could be agreed upon for the barrel removal. Mr. Watson suggested that John Stevens discuss such a price with an individual named James Wessel. Mr. Wessel subsequently telephoned John Stevens from Mr. Watson's law office and a total staging fee of One Hundred Eighty-Nine Dollars (\$189.00) for all twenty-seven (27) of American Monitor's barrels was agreed upon. American Monitor made arrangements to have the barrels picked up on September 7 or 8, 1982, but they received notice that the Enviro-Chem site was closed and it could not pick up the twenty-seven (27) barrels.


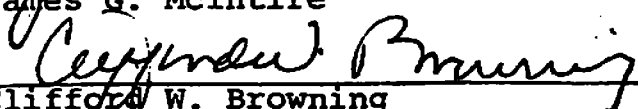
6. American Monitor remains ready, willing and able to pick up and properly transport and dispose of its twenty-seven (27) barrels remaining upon the Enviro-Chem site, and remains ready, willing and able to pay to the site's Operational and Financial Receiver the agreed upon staging fee of \$189.00.

7. Despite repeated attempts by American Monitor to contact the Enviro-Chem site's Operational and Financial Receiver to coordinate the pick up and disposal of American Monitor's twenty-seven (27) drums remaining on the site, the Operational and Financial Receiver has failed to grant American Monitor approval to remove its barrels from the Enviro-Chem site.

8. American Monitor would show this Court that any and all wastes for which it is responsible presently on the Enviro-Chem site are contained in readily identifiable leak-proof, Department of Transportation-approved, polypropylene barrels, which were not

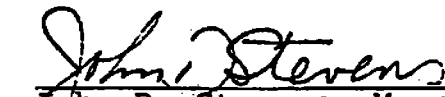
leaking as of on or about September 30, 1982, that American Monitor's wastes were never treated or disposed of upon the Enviro-Chem site, that there was a prior agreement between American Monitor and the Operational and Financial Receiver for the proper transportation and removal from the Enviro-Chem site of all American Monitor's remaining barrels, and that an agreed upon price for removing said barrels had been set between American Monitor and the Operational and Financial Receiver of the Enviro-Chem site, and that American Monitor remains ready, willing and able to cause the safe and proper removal of all of its remaining barrels on the Enviro-Chem site as of this date.

WHEREFORE, and for the foregoing reasons, American Monitor petitions this Court to order the Operational and Financial Receiver of the Enviro-Chem site to open the gates thereof to permit American Monitor to effectuate the removal of its remaining barrels on the Enviro-Chem site in accordance with the prior agreement between American Monitor and the Operational and Financial Receiver. In the alternative, American Monitor petitions this Court to absolve American Monitor from any and all liability for any and all discharges of American Monitor wastes from their present containers proximately caused by the negligent acts of the agents, officers, employees, assigns and successors-in-interest of the Enviro-Chem Operational and Financial Receiver, the Indiana Environmental Management Board, and generators and transporters who are permitted to operate within the boundaries of the Enviro-Chem site after the date of this Petition.


James G. McIntire

Clifford W. Browning
KRIEG DEVAULT ALEXANDER & CAPEHART
2800 Indiana National Bank Tower
One Indiana Square
Indianapolis, Indiana 46204
(317) 636-4341

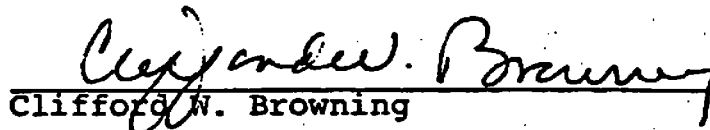
Attorneys for American Monitor
Corporation

I affirm, under the penalties for perjury, that the foregoing representations are true and accurate to the best of my knowledge and belief.


John D. Stevens, Manager
Instrument Compliance
American Monitor Corporation

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing has been served upon Gary L. Watson, 124 East Washington Street, Post Office Box 110, Lebanon, Indiana 46052 and Phillip B. Rarick, Deputy Attorney General, Offices of Attorney General, 219 State House, Indianapolis, Indiana 46204 by depositing a copy of the same in the United States mail, first class postage prepaid this 15 day of March, 1983.


Clifford W. Browning

STATE OF INDIANA)
COUNTY OF BOONE) SS:

IN THE BOONE COUNTY CIRCUIT COURT
CAUSE NO. C81-131

INDIANA ENVIRONMENTAL
MANAGEMENT BOARD,

Plaintiff,

v.
ENVIRO-CHEM CORPORATION,
et al.,

Defendants.

RESPONSE OF PLAINTIFF TO
VERIFIED PETITION BY
AMERICAN MONITOR CORPORATION

Comes now the Indiana Environmental Management Board, by counsel, and in response to the Verified Petition by American Monitor Corporation to remove 27 barrels from the Enviro-Chem Corporation site, requests the Court to take into consideration the following relevant information:

1. Plaintiff is diligently pursuing clean up of the Enviro-Chem Corporation site pursuant to one master plan performed by a qualified competent firm, experienced in the clean up and removal of hazardous waste. Pursuant to this goal, on February 24, 1983, the Plaintiff entered into contract with the Environmental Protection Agency pursuant to Sections 104(a)(1), (b), (c)(2) and (c)(3) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA, popularly know as Superfund) 42 U.S.C. 9601 et seq. A copy of this contract is attached hereto as Exhibit 1 and incorporated herein. A summary of the activity and respective costs to be performed pursuant to this contract is set forth at the last page of the contract titled "Statement of Work."

2. The Plaintiff anticipates said contract to be the first of three contracts pursuant to CERCLA to effectuate a comprehensive clean up of the Enviro-Chem Corporation site. By letter of February 18, 1983, from the Regional Administrator for

the Environmental Protection Agency to Mr. Linley E. Pearson, Attorney General of Indiana, the Environmental Protection Agency provided the State certain assurances that a comprehensive clean up pursuant to CERCLA would be pursued and implemented. A copy of this letter is attached hereto as Exhibit 2 and incorporated herein.

3. While pursuing CERCLA funding for the Enviro-Chem Corporation clean up, the State has also been pursuing securing funding from generators with inventory on the site and the owners of the Enviro-Chem Corporation site real estate. Neither negotiations with said generators nor landowners appear near fruition at this time.

4. Upon execution of the second CERCLA contract, the Plaintiff anticipates removal of all drums on site will commence approximately July 1, 1983 and be concluded by the end of 1983. Plaintiff believes one drum removal operation, conducted by a qualified and approved contractor, and overseen by a State and Environmental Protection Agency inspector, provides the greatest assurance for an orderly, safe and environmentally secure removal.

5. Petitioner appears to claim certain equities favor excepting Petitioner from the Receiver's September 3, 1982 ban restricting any drum removal from the site. Petitioner appears to primarily rely upon an alleged agreement with the Receiver consummated prior to the September 3, 1982 ban. This appears to be a matter solely between the Petitioner and Receiver, therefore Plaintiff takes no position regarding Petitioner's petition.

Respectfully submitted,

LINLEY E. PEARSON
Attorney General of Indiana

By: 
Deputy Attorney General

Office of Attorney General
219 State House
Indianapolis, Indiana 46204
Telephone: (317) 232-6195

CERTIFICATE OF SERVICE


I do hereby certify that a copy of the foregoing
RESPONSE OF PLAINTIFF TO VERIFIED PETITION BY AMERICAN MONITOR
CORPORATION was served by United States Mail, first class,
postage prepaid on this 14 day of March, 1983 addressed to:

Mr. Gary Watson
Attorney at Law
P.O. Box 110
Lebanon, IN 46052

Mr. Halbert W. Kunz
KUNZ & KUNZ
320 N. Meridian St., Rm 528
Indianapolis, IN 46204

James G. McIntire
Clifford W. Browning
KRIEG, DeVAULT,
ALEXANDER & CAPEHART
2800 Indiana National Bank Tower
One Indiana Square
Indianapolis, IN 46204

Mr. Warren Krebs
PARR, RICHEY, OBREMSKEY
& MORTON
225 West Main St.
P.O. Box 666
Lebanon, IN 46052


Phillip B. Karick
Deputy Attorney General

**BOONE CIRCUIT COURT
TWENTIETH JUDICIAL CIRCUIT
LEBANON, INDIANA**

46052

RONALD E. DRURY
Judge

March 18, 1983

TEL: (317) 482-0530

**Gary Watson
Attorney at Law
124 E. Washington
Lebanon, IN 46052**

**Re: Cause No. C81-131
Indiana Environmental
Management Board v. Enviro-
Chem**

Dear Mr. Watson:

**Please be advised that on this date the following
docket entry was made in the above entitled cause:**

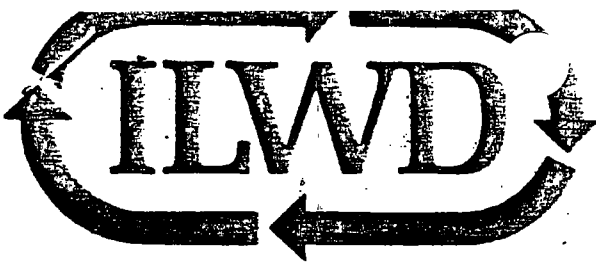
**"The court grants Verified Petition of
American Monitor Corporation filed
3-2-83 unless objection is received
from receiver within 7 days (on or
before Thursday, March 24, 1983)."**

Sincerely,

**Ronald E. Drury
Judge Boone Circuit Court**

RED/sr

**cc: Phil Rarick
Clifford Browning**



ILWD, INC.

7901 West Morris Street
Indianapolis, Indiana 46231
317/243-0811

MANIFEST

No. 34778

Date 3-25-88

Billing Information

Customer American Monitor Tractor no. 56 Cust. No. _____
5425 W. 84th St. Trailer No. 21 P.O. No. _____
Indianapolis, IN Ind. Permit No. IN 0302 0000 11

*Material Picked up at
ENVIRO-CHEM*

2 drums

MANAGEMENT

MATERIAL	
FREIGHT	
OTHER	

Lbs/Gals

Gross Gals.

%BSW

Net Wgt.

Net Gals

Transportation Manifest

QUANTITY	HM	DESCRIPTION (Insert Proper Shipping Name)	PLACARD CLASSIFICATION
<i>2</i> DRUMS	D002 F007	#4 - Waste Acids	Flammable <input type="checkbox"/> Corrosive Materials <input checked="" type="checkbox"/> Poison <input type="checkbox"/>
<i>2</i> DRUMS	F009	#5-Waste Alkaline Cleaning Solution	Irritating Materials <input type="checkbox"/> <input type="checkbox"/>

SPECIAL CHARGES

INITIAL APPROVAL

Hose: _____ Sections 270
Customer Waiting: _____ Minutes
ILWD Waiting: _____ Minutes
Pump/Vacuum Time: _____ Minutes
Drums Pumped: _____ Number
Extra Vehicle: YES _____ NO _____
Extra Labor: _____ Hours
Other (Specify) _____

This is to certify that the above named materials are properly classified, described, packaged, marked and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation.

Environmental Manifest

GENERATOR EPA IDENTIFICATION NO. IND 004 939 351

COMPANY NAME American Monitor

ADDRESS 5425 W. 84th St.

CITY Indianapolis STATE IN ZIP 46268 PHONE _____

This is to certify that the named materials are properly classified, described, packed and labeled, and are in proper condition for transportation with proper placards according to the applicable regulations of the Department of Transportation and the Environmental Protection Agency.

Signature John D. Stevens Print Name JOHN D. STEVENS

TRANSPORTER EPA IDENTIFICATION NO. IND 058484114

COMPANY Indiana Liquid Transport

ADDRESS 460 Jonesville Road

CITY Columbus STATE IN ZIP 47201 PHONE 376-8027

This is to certify acceptance of this hazardous waste for transportation. Carrier certifies that the cargo tank supplied for this shipment is a proper container for the transportation of this commodity.

Signature Tom Long Print Name TOM LONG Date 3/25/88

TREATMENT/DISPOSAL FACILITY EPA IDENTIFICATION NO. IND 093219012

COMPANY ILWD, Inc.

ADDRESS 7901 W. Morris St.

CITY Indpls STATE IN ZIP 46231 PHONE 243-0811

This is to certify the acceptance of this hazardous waste for treatment/disposal.

Loading Time
Arrival 8:00
Departure 12:30

Travel Time
Departure _____
Arrival _____

Unloading Time
Arrival _____
Departure _____